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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,516	02/17/2004	David Jonathan Lachelt	200206750-1	1363
22879 7590 02/22/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER KEEHN, RICHARD G				
ART UNIT 2152		PAPER NUMBER		
NOTIFICATION DATE 02/22/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/780,516

**Applicant(s)**

LACHELT ET AL

**Examiner**

Richard G. Keehn

**Art Unit**

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/18/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to the amendment filed 12/18/2007. This action has been made **Final**.

#### ***Response to Arguments***

1. Applicant's arguments, filed 12/18/2007, with respect to justification for not providing an IDS have been fully considered and are persuasive. The objection of 37 C.F.R. 1.98(b) has been withdrawn.
2. Applicant's drawing amendments, filed 12/18/2007, with respect to the drawing objections have been fully considered and are persuasive. The objections of all figures have been withdrawn.
3. Applicant's arguments and amendments, filed 12/18/2007, with respect to 35 U.S.C. 112 have been fully considered and are persuasive. The 35 U.S.C. 112 rejections of Claims 3-6, 14-17 and 22-24 have been withdrawn.
4. Applicant's arguments filed 12/18/2007 with respect to Claim Rejections under 35 U.S.C. 103 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments for each individual reference pointed to missing limitations, but said missing limitations were taught in another cited reference combined under 35 U.S.C. 103 in the first action on the merits. Applicant provided a general allegation that

the claims define a patentable invention over the combination without persuasively demonstrating how the language of the claims patentably distinguishes his invention from the *combination* of references cited under 35 U.S.C. 103.

Rafai, Shapiro et al. and Rockwell, standing alone, do not teach "first journaling proxy being associated with a first target element of said plurality of target elements, said first journaling proxy intentionally delaying sending said first atomic request to said first target element for execution until a time  $t_2$  that satisfies a set of predefined configuration parameters for said first target element," as claimed. If the claim rejections were based on 35 U.S.C. 102, Applicant's arguments would have merit. However, as indicated in the non-final action dated 9/14/2007, the claims were rejected under 35 U.S.C. 103.

The *combination of references* discloses an invention substantially as claimed, including "first journaling proxy being associated with a first target element of said plurality of target elements (Shapiro, Page 3, paragraph 0038 describes the RFS proxy specific to the client device enabled that receives requests), said first journaling proxy intentionally delaying sending said first atomic request to said first target element for execution until a time  $t_2$  that satisfies a set of predefined configuration parameters for said first target element (Rafai, Pages 6 and 7, paragraph 0094 describes a delay until a time when resources are viable)."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the individual proxy method taught by Shapiro et al. with task parsing and scheduling method taught by Rafai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide individual proxies for various devices that are configured to each device's specific needs.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code 103(a) not included in this action can be found in a prior Office Action.
6. Refai et al., Shapiro et al. and Rockwell were cited as prior art in the previous office action. The teachings that are applicable are respectfully maintained and incorporated by reference as set forth in the last office action.
7. Claims 3-6, 14-17 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Refai et al. in view of Rockwell.

As to these claims, the combination of Refai et al. and Rockwell discloses an invention substantially as previously claimed. Rockwell discloses the amended limitation **"to a predetermined value"** (Rockwell, Page 2-19 shows the operation of the CTU instruction which allows setting to a predetermined value by entering a value into the "Preset" register).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the resetting to a predetermined value method taught by Rockwell with the resetting of the first target element method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to provide a means to reset to predetermined values for flexibility of setup.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G. Keehn whose telephone number is 571-270-5007. The examiner can normally be reached on Monday through Thursday, 8:30am - 7:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RGK

/Bunjob Jaroenchonwanit/  
Supervisory Patent Examiner, Art Unit 2152